

Jefferson County
Board of Commissioners
Consent Agenda Request

To: Board of Commissioners
Josh Peters, County Administrator

From: Monte Reinders, P.E., Public Works Director 

Agenda Date: August 4, 2025

Subject: Easement Agreement between Washington State Department of Natural Resources and Jefferson County related to Sea Home Road, County Road No. 420509

Statement of Issue:

Public Works staff requests approval of the attached Easement from the Washington State Department of Natural Resources (DNR). This Easement Agreement is needed because Sea Home Road, County Road No. 420509 lies outside of its deeded right of way and is located on DNR property. DNR has indicated that a claim of rights under RCW 36.75.070 & 36.75.080 is precluded from being asserted by RCW 4.16.160. This matter has been reviewed by the Prosecuting Attorney's Office (PAO).

Analysis/Strategic Goals/Pro's & Con's:

The Proposed Easement is for the right of way in use as the current alignment of Sea Home Road which provides public access to DNR lands, private rural residential parcels and is in use as a utility corridor.

Fiscal Impact/Cost Benefit Analysis:

The total cost for this easement is \$29,100.00 and is funded through the county road fund.

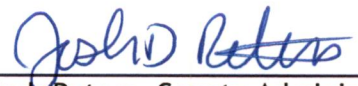
Recommendation:

The Board is requested to accept and sign the attached DNR Easement 50-109001 on page 11 & have signatures notarized on pages 12, 13 & 14 (2 Originals), and return to Public Works for further processing. The Board will be provided with a copy of the fully executed document once recorded.

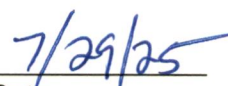
Department Contact:

Josh Thornton, Real Property Specialist, 360-385-9162.

Reviewed By:



Josh Peters, County Administrator



Date

When recorded return to:
Department of Natural Resources
Olympic Region
Attn: Justin Pagel
411 Tillicum Lane
Forks WA 98331



WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES
DAVE UPTHEGROVE | COMMISSIONER OF PUBLIC LANDS

COUNTY ROAD EASEMENT

Grantor(s): STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES
Grantee(s): JEFFERSON COUNTY
Legal Description: Portions of the E1/2SE1/4 of Section 35, Township 27 N, Range 1 W., W.M., Jefferson County, Washington.
Assessor's Property Tax Parcel or Account Number: 701354001
DNR Easement No.50-109001

This Easement is between JEFFERSON COUNTY, a political subdivision of the State of Washington herein called "Grantee" and the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, herein called "State" dated as of _____ "Effective Date". This agreement will take effect when both parties have signed the original agreement, and all required documents, including payment for the conveyance are returned to State, and Grantee has completed all actions that must be completed prior to the Effective Date as specified below.

Conveyance. State for and in consideration of the terms and conditions specified herein, hereby grants and conveys to the Grantee:

A non-exclusive easement in gross for the sole purpose of construction, operation, use, and maintenance of a public road over and across portions of the E1/2SE1/4 of Section 35, Township 27 N, R 1 W, known as "Sea Home Road" as shown on Exhibit A as

Easement Area (hereinafter Easement Area), filed in the office of the Washington State Commissioner of Public Lands at Olympia, Washington, under file number 50-109001 and by this reference made a part hereof, all in Jefferson County, Washington.

Consideration. The consideration paid by the Grantee to State is as follows: TWENTY-NINE THOUSAND ONE HUNDRED AND ZERO/100 Dollars (\$29,100.00). This Easement shall not be effective until the State receives the payment required under this provision.

Term. The term of this Easement shall be perpetual unless vacated as provided by law.

Assignment. Neither this Easement, nor any of the rights granted herein, shall be assigned without prior written consent of State.

Compliance with Laws. Grantee shall, at its own expense, conform to all applicable laws, regulations, permits, or requirements of any public authority affecting the Easement Area and the use thereof. Upon request, Grantee shall supply State with copies of permits or orders.

Export Restrictions. Any export restricted timber originating from state land under this Easement shall not be exported until processed. Grantee shall comply with all applicable requirements of WAC 240-15-015 (relating to the prohibitions on export and substitution), WAC 240-15-025 (relating to reporting requirements), and WAC 240-15-030 (relating to enforcement). All export restricted timber from state lands shall be painted and branded in compliance with WAC 240-15-030(2). If Grantee knowingly violates any of the prohibitions in WAC 240-15-015, Grantee shall be barred from bidding on or purchasing export restricted timber as provided. Grantee shall comply with the Export Administration Act of 1979 (50 U.S.C. App. Subsection 2406(i)) which prohibits the export of unprocessed western cedar logs harvested from state lands.

Compliance with Habitat Conservation Plan. The Easement Area is located within an area that is subject to the State's Habitat Conservation Plan adopted in connection with Incidental Take Permit No. TE812521-1 as supplemented by Permit No. 1168 (collectively "ITP"). As long as the Habitat Conservation Plan remains in effect, Grantee and all contractors, subcontractors, invitees, agents, employees, licensees, or permittees acting under Grantee shall comply with the terms and conditions set forth in Exhibit B while operating on the Easement Area.

Indemnity. Grantee shall indemnify, defend with counsel acceptable to State, and hold harmless State, its employees, officers, and agents from any and all liability, damages, expenses, causes of action, suits, claims, costs, fees (including attorney's fees), penalties, or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Easement Area by Grantee, its contractors, subcontractors, invitees, agents, employees, licensees, or permittees, including but not limited to the use, storage,

generation, processing, transportation, handling, disposal, release, or threatened release of any hazardous substance or materials. To the extent that RCW 4.24.115 applies, Grantee shall not be required to indemnify State from State's sole or concurrent negligence. This indemnification shall survive the expiration or termination of the Easement. Grantee waives its immunity under Title 51 RCW and under RCW 36.75.300 to the extent required to indemnify State.

Insurance. Before using any of said rights granted herein and at its own expense, the Grantee shall obtain and keep in force during the term of this Easement and require its contractors, sub-contractors, or other permittees to obtain while operating on the Easement Area, the following liability insurance policies, insuring Grantee against liability arising out of its operations, including use of vehicles. Failure to buy and maintain the required insurance may result in the termination of the Easement at State's option. The limits of insurance, which may be increased by State, as deemed necessary, shall not be less than as follows:

- (a) Commercial General Liability (CGL) insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the general aggregate limits shall be at least twice the "each occurrence" limit, and the products-completed operations aggregate limit shall be at least twice the "each occurrence" limit.
- (b) Employer's liability ("Stop Gap") insurance, and if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (c) Business Auto Policy (BAP) insurance, and if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 per accident, with such insurance covering liability arising out of "Any Auto". Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later versions of CA 00 01. Grantee waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.
- (d) Grantee shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of Grantee and employees of any contractors, sub-contractors or other permittees. Except as prohibited by law, Grantee(s) waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers compensation,

employer's liability, commercial general liability or commercial umbrella liability insurance.

All insurance must be purchased on an occurrence basis and should be issued by companies admitted to do business within the State of Washington and have a rating of A- or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved in advance by the Risk Manager for the Department of Natural Resources. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.

The State of Washington, Department of Natural Resources, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, and umbrella insurance policies.

Before using any said rights granted herein, Grantee shall furnish State with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified above. Certificate(s) must reference State's easement number.

State shall be provided written notice before cancellation or non-renewal of any insurance referred to herein, as prescribed in statute (Chapter 48.18 RCW or Chapter 48.15 RCW). Grantee shall include all contractors, sub-contractors and other permittees as insureds under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each. Contractors, sub-contractors and other permittees must comply with all insurance requirements stated herein. Failure of contractors, sub-contractors and other permittees to comply with insurance requirements does not limit Grantee's liability or responsibility.

All insurance provided in compliance with this Easement shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State. Grantee waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this Easement.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Grantee, and such coverage and limits shall not limit Grantee's liability under the indemnities and reimbursements granted to State in this Easement.

If Grantee is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Grantee must describe its financial condition and the self-insured funding mechanism.

This Easement shall not be effective until the State receives a Certificate of Insurance that complies with the requirements of this provision.

Waste. Grantee shall not cause or permit any filling activity to occur in or on the Easement Area, except as approved by State. Grantee shall not deposit refuse, garbage, or other waste matter or use, store, generate, process, transport, handle, release, or dispose of any hazardous substance, or other pollutants in or on the Easement Area except in accordance with all applicable laws.

The term hazardous substance means any substance or material as those terms are now or are hereafter defined or regulated under any federal, state, or local law including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA 42 USC 9601 *et seq.*) as administered by the US Environmental Protection Agency, or the Washington Model Toxic Control Act (MTCA RCW 70A.305) as administered by the State Dept. of Ecology.

Grantee shall immediately assume responsibility for a hazardous substance release (spill) caused by Grantee or its Permittees on or adjoining the Easement Area.

As responsible party, Grantee shall:

- Immediately notify all necessary emergency response agencies, as required under federal, state and local laws, regulations, or policies.
- Following emergency response agency notifications, notify State (Dept. of Natural Resources) of all spill releases and Grantee actions completed for spill reporting and actions planned or completed toward spill cleanup. State notification requirements are “same business day” notification for normal state work days and “next available business day” notification for weekends and holidays.
- At Grantees sole expense, conduct all actions necessary to mitigate the spill release. Mitigation response actions may include, but are not necessarily limited to, initial release containment, follow-up site cleanup and monitoring actions, and continued contact and coordination with regulators and State, as defined under the aforementioned laws, regulations, policies and this agreement.
- Other than performing initial emergency response cleanup/containment actions; obtain approvals in advance of all site cleanup actions (e.g. site characterization investigations, feasibility studies, site cleanup and confirmation sampling, and groundwater monitoring) conducted on State lands, in coordination with regulatory agencies and State.
- Obtain and understand all necessary hazardous substance spill release notification and response mitigation requirements, in advance of conducting Grantee operations on State land.

Survey Markers. Grantee shall not destroy any land survey corner monuments and/or reference points (including but not limited to corner markers, witness objects, or line markers) without prior written approval from State, which shall not be unreasonably withheld. Monuments or reference points that must necessarily be disturbed or destroyed during road construction or maintenance activities must be adequately referenced and

replaced, at the Grantee's cost, under the direction of a State of Washington Professional Land Surveyor, in accordance with all applicable laws of the State of Washington in force at the time of construction, including but not limited to RCW 58.24, and all Department of Natural Resources regulations pertaining to preservation of such monuments and reference points.

Cultural Resources and Inadvertent Discovery

Inadvertent Discovery of Human Skeletal Remains (RCW 68.50.645, RCW 27.44.055, and RCW 68.60.055). Disturbance of human skeletal remains is subject to felony criminal prosecution and fines under state law. If Grantee's ground disturbing activities encounter human skeletal remains, then Grantee shall cease all activity that may cause further disturbance to those remains. Grantee shall secure and protect the area of the find from further disturbance and report the presence and location of the remains to the medical examiner/coroner and local law enforcement in the most expeditious manner possible as required by law. Grantee shall further notify the State of the presence and location of such remains and confirm notification to the coroner/medical examiner and local law enforcement. Grantee shall not touch, move or further disturb the remains and shall cooperate with state and local authorities. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the State and the Department of Archaeology and Historic Preservation (DAHP), which will then take jurisdiction over the remains. DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. DAHP and the State will consult with the affected parties as to the future preservation, excavation, and disposition of the remains.

Ground Disturbing Activities. Ground Disturbing Activities occur when the ground is compacted, traversed, or cut and may include such activities as blading, excavation, grading, grubbing, leveling, potholing, and trenching. Ground disturbances can also occur from vehicular traffic including heavy equipment (excavators, backhoes, bulldozers, boring, trenching and earthmoving equipment, etc.), heavy trucks (large four wheel drive trucks, dump trucks and tractor trailers, etc.), and from the use of hand tools (shovels, pick axe, posthole digger, etc.).

Cultural Resources Survey. State may require that the Grantee retain a qualified professional to perform cultural resources surveys for the Easement Area (Survey) prior to construction activities. State may require the Survey to address archaeological, built environment, and traditional cultural places. The qualified professional shall meet the United States Secretary of the Interior's Professional

Qualification Standards (36 CFR Part 61) for Archeology and Historic Preservation, found at https://www.nps.gov/history/local-law/arch_stnds_9.htm, or as otherwise required by DAHP. All cultural resource work must comply with RCW 27.53 and RCW 27.44. State's approval is required before Grantee finalizes or submits the professional reports, archaeological site forms, and other cultural resource documents to regulatory agencies.

Cultural Resources Monitoring. When cultural resources monitoring is required by State or regulatory agencies, the Grantee shall submit for State's approval a Cultural Resources Monitoring Plan (Monitoring Plan). If Grantee encounters cultural features, artifact concentrations, bone, or intact archaeological during monitoring, Grantee shall halt work in the immediate vicinity and take the appropriate steps as outlined in the Monitoring Plan.

Operational Restrictions. Site-specific operational requirements are listed in Exhibit C. Non-compliance with these requirements shall constitute a breach of the Easement and may result in State suspending operations until the breach is remedied.

Construction/Reconstruction. Sixty (60) days prior to any construction or reconstruction by Grantee on the Easement Area, Grantee shall submit a written plan of construction to State outlining the construction or activity for State's approval, which shall not be unreasonably withheld. In the event of an emergency requiring immediate action to protect person or property, Grantee may take reasonable corrective action without prior notice to State. All construction or reconstruction shall comply with applicable state or local laws.

Maintenance, Repair, and Improvements. Grantee shall have sole responsibility for the maintenance, repair and improvement of the road to county road standards.

Weed Control/Pesticides. The Grantee shall control at its own cost, all noxious weeds on any portion of the Easement Area herein granted. Such weed control shall comply with county noxious weed control board rules and regulations established under the Uniform Noxious Weed Control Statute (Chapter 17.10 RCW). The Grantee shall be responsible for, or shall immediately reimburse State any weed control cost incurred as a result of the Grantee's failure to control weeds on the Easement Area.

All ground methods of chemical weed control shall be approved in writing by State prior to beginning such activities.

The aerial application of pesticides is not permitted.

Notice. Any notices or submittals required or permitted under this Easement may be delivered personally, sent by facsimile machine or mailed first class, return receipt requested, to the following addresses or to such other place as the parties hereafter direct.

Notice will be deemed given upon delivery, confirmation of facsimile, or three days after being mailed, whichever is applicable.

To State:

DEPARTMENT OF NATURAL RESOURCES
Olympic Region
411 Tillicum Lane
Forks WA 98331
(360) 374-2800

To Grantee:

Jefferson County
623 Sheridan Street
Port Townsend, WA 98368
(360) 385-9242

Recording. Grantee shall record this Easement in the county in which the Easement Property is located, at Grantee's sole expense. Grantee shall provide State with a copy of the recorded Easement. Grantee shall have thirty (30) days from the date of delivery of the final executed agreement to comply with the requirements of this section. If Grantee fails to record this Easement, State may record it and Grantee shall pay the costs of recording, including interest, upon State's demand.

Danger Tree Removal. Individual trees located within the danger tree zones outside of the Easement Area and within the Easement Area which shall be dangerous to the operation and maintenance of the public road in the Easement Area, may be removed subject to the following:

1. Grantee shall mark the trees.
2. Grantee shall timber cruise the trees.
3. Grantee shall notify DNR in writing of their request to remove the danger trees and include the cruise and a map showing the location of the trees.
4. State will determine the fair market value of the trees it authorizes to be removed.
5. State will approve the removal of danger trees contingent upon payment in full by Grantee prior to removal.

In the event of an emergency requiring immediate action to protect person or property, Grantee shall:

1. Fall and/or remove the necessary danger tree(s) without advance authorization from State.
2. Cruise the felled and/or removed tree(s).

3. Grantee shall notify State in writing of the tree(s) felled and/or removed and include a map of the location and a cruise within fourteen (14) days after felling.
4. DNR will determine the fair market value of the tree(s) felled and/or removed and bill the Grantee.
5. Grantee shall pay for the tree(s) within thirty (30) days of receipt of the billing notice.

Abandonment. In the event any portion of the road is abandoned, the Grantee shall take the necessary legal action to vacate such portions and shall immediately restore the land within all vacated portions to natural conditions as may be directed by State. In restoring the land, all asphalt shall be removed from the vacated portion; the asphalt shall not be deposited on the adjacent State land. In addition, the land surface shall be scarified to blend with the adjoining landscape.

Noncompliance. State shall notify the Grantee of any instance of noncompliance by the Grantee, its contractors, subcontractors, invitees, agents, employees, licensees, or permittees with any of the terms and conditions hereof. Such notice will specifically identify the manner of noncompliance herewith.

In the event the Grantee does not undertake, or cause to be undertaken, remedial action within fifteen (15) days following receipt of said notice, State, acting by and through its Region Manager at Forks, Washington, may suspend the Grantee's operations until such time as effective remedial action is taken.

Construction. The terms of this Easement shall be given their ordinary meaning unless defined herein and shall not be presumed construed against the drafter.

Effective Date. The Effective Date of this Easement shall be the date on which the last party executes this Easement. The Effective Date will be inserted on the first page of the Easement when such date is determined.

Exhibits. All exhibits referenced in this Easement are incorporated as part of the Easement.

Headings. The headings in this Easement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Easement nor the meaning of any of its provisions.

Modification. Any modification of the Easement must be in writing and signed by the parties. State shall not be bound by any oral representations or statements.

Non-waiver. The waiver by State of any breach or the failure of State to require strict compliance with any term herein shall not be deemed a waiver of any subsequent breach.

Severability. If any provision of this Easement shall be held invalid, it shall not affect the validity of any other provision herein.

IN WITNESS WHEREOF, the parties hereto have executed this instrument, in duplicate,
as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS

Dated: _____, 20__.

By: _____
HEATHER DUDLEY-NOLLETTE
County Commissioner District 1
1820 Jefferson Street
P.O. Box 12220
Port Townsend WA 98368
360-385-9105

Dated: _____, 20__.

By: _____
HEIDI EISENHOUR
County Commissioner District 2
1820 Jefferson Street
P.O. Box 12220
Port Townsend WA 98368
360-385-9105

Dated: _____, 20__.

By: _____
GREG BROTHERTON
County Commissioner District 3
1820 Jefferson Street
P.O. Box 12220
Port Townsend WA 98368
360-385-9105

STATE OF WASHINGTON
DEPARTMENT OF NATURAL
RESOURCES

Dated: _____, 20__.

Approved as to form
October 18, 2002
by Mike Rollinger
Assistant Attorney General
for the State of Washington



By: _____
TODD WELKER
Deputy Supervisor for State Uplands
P.O. Box 47001
1111 Washington Street SE
Olympia, WA 98504-7001
Phone: 360-902-1600

REPRESENTATIVE ACKNOWLEDGMENT

State of Washington

County of Jefferson

I certify that I know or have satisfactory evidence that HEATHER DUDLEY-NOLLETTE
are the individuals who appeared before me, and said individuals acknowledged that they
signed this instrument, on oath stated that they were authorized to execute the instrument
and acknowledged it as the County Commissioners of Jefferson
County to be the free and voluntary act of such party for the uses and purposes mentioned
in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at _____.

My appointment expires _____.

REPRESENTATIVE ACKNOWLEDGMENT

State of Washington

County of Jefferson

I certify that I know or have satisfactory evidence that HEIDI EISENHOUR
are the individuals who appeared before me, and said individuals acknowledged that they
signed this instrument, on oath stated that they were authorized to execute the instrument
and acknowledged it as the County Commissioners of Jefferson
County to be the free and voluntary act of such party for the uses and purposes mentioned
in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at _____.

My appointment expires _____

REPRESENTATIVE ACKNOWLEDGMENT

State of Washington

County of Jefferson

I certify that I know or have satisfactory evidence that GREG BROTHERTON
are the individuals who appeared before me, and said individuals acknowledged that they
signed this instrument, on oath stated that they were authorized to execute the instrument
and acknowledged it as the County Commissioners of Jefferson
County to be the free and voluntary act of such party for the uses and purposes mentioned
in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at _____.

My appointment expires _____.

STATE ACKNOWLEDGMENT

State of Washington

County of Thurston

I certify that I know or have satisfactory evidence that TODD WELKER is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Deputy Supervisor for State Uplands of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

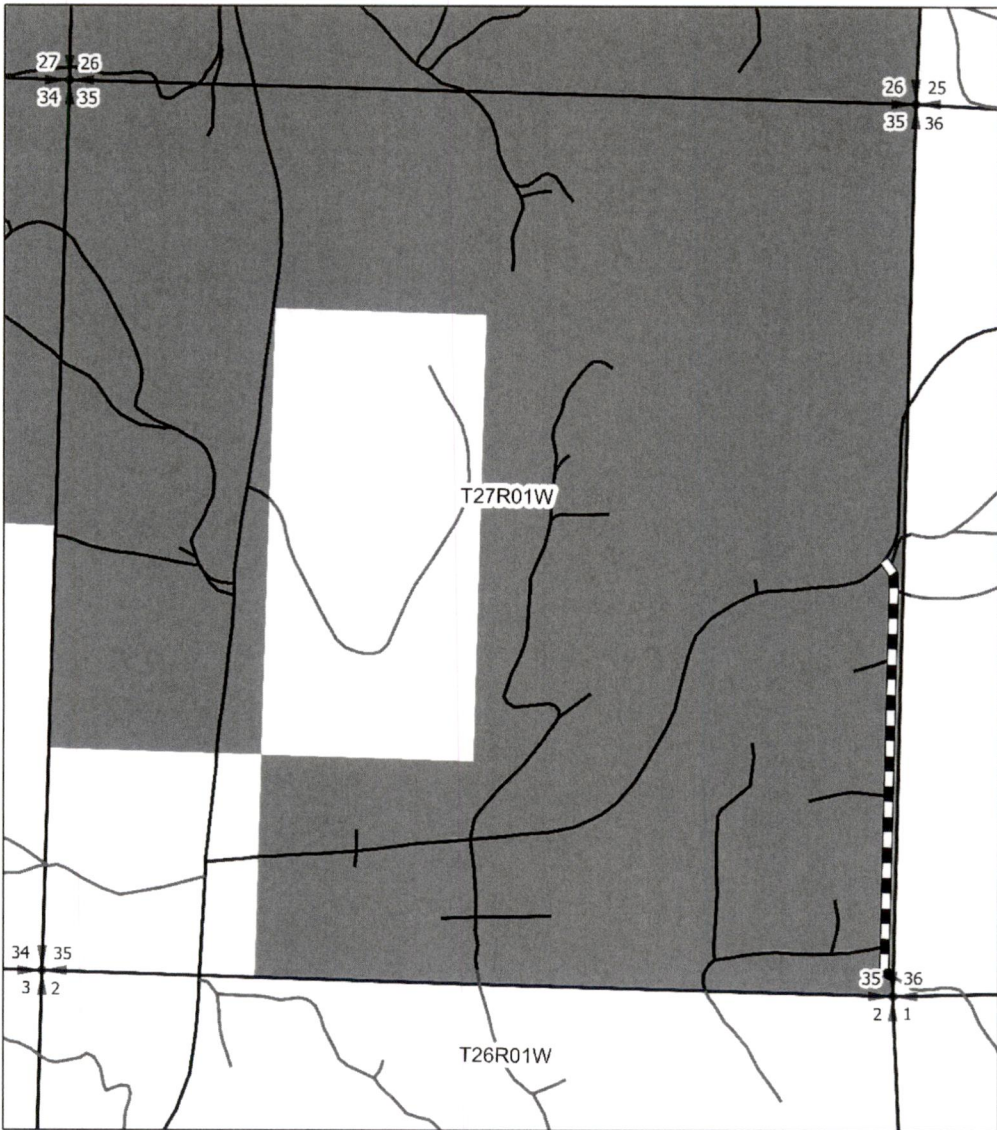
(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at _____.

My appointment expires _____.

EXHIBIT A



State
Easement Area

Easement Length 2381 Feet (Approx.)
Easement Width 30 Feet (Approx.)
Easement Area 1.64 Acres (Approx.)

0 0.05 0.1 0.2 0.3 0.4 Miles



EXHIBIT B
HCP REQUIREMENTS

- 1) Grantee shall immediately notify State of the following:
 - a) That Grantee has discovered locations of any species listed by the U.S. Fish and Wildlife Service as threatened or endangered species (listed species) under the Endangered Species Act as such list may be updated from time to time; and
 - b) That Grantee has located any live, dead, injured, or sick specimens of any listed species.
- 2) Notification required in subsection 1) must in all circumstances occur as soon as practicable but in any event within 24 hours.
- 3) Grantee may be required to take certain actions to help State safeguard the well-being of any live, injured or sick specimen of any listed species until the proper disposition of such specimen can be determined by State.
- 4) Any application for a Forest Practices Permit submitted by Grantee for activities on the State Easement Area must identify that the State Easement Area is covered by the HCP.

EXHIBIT C
OPERATIONAL REQUIREMENTS

- Roads may not be used when continued use will result in excessive damage due to weather or other conditions.
- Hauling of forest products is not allowed on the State's ownership between November 1st and March 31st.